IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 13753 of 2005

Between:

1. Abburi Venkateshwarlu, S/o Venkata Subbaiah, Aged 55 years,

Occ: Agriculture,

2. Abburi Krishnaiah s/o Ramaiah, aged about 60 years, Occ: Agriculture

Both are residents of Tangutur village and Mandal, Prakasham Dist.

..... PETITIONERS

AND

1. The Assistant Commissioner of Endowments, Kothapet, Ongole, Prakasam District.
2. The Manager, Sri Lethotamma Ammavari Devasthanam, Tanguturu village and Mandal, Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly one in the nature of writ of Mandamus or any other appropriate writ or direction declaring the action of the respondent in auctioning the lease hold rights of the lands in Sy.No.879, 891 admeasuring an extent of Ac.14.00 in Tangutur village and mandal, Prakasam district belongs to Lethotamma ammavari Devasthanam as illegal, arbitrary and consequently direct the respondents to allow the petitioner to cultivate the land by renewing the lease hold.

Counsel for the Petitioner: MS. K. LALITHA

Counsel for the Respondents: GP for ENDOWMENTS

The Court made the following :

:: ORAL ORDER ::

The petitioners challenge the action of the 2nd respondent in notifying for auction of lease hold rights of the lands in Sy.No. 879 and 891 admeasuring Ac.20.43 cts, situated in Tanguturu village and Mandal, Prakasam District, belonging to Sri Lethotamma Devasthanam.

The petitioners claim to have been in possession of the lands aforesaid to an extent of Ac.8.60 cts and Ac.5.40 cts, respectively, as lessees. The lease in their favour stood determined by the legislative edict of Sec.82 of the AP Hindu Religious and Charitable Endowments Act 1987 (for short 'the Act'). In view of the fact that each of the petitioners was cultivating the specified extend of land, they do not fall to be characterized as landless poor persons, entitled to the benefits under Sec.82(2) of the Act. The determination of the lease is by operation of law. Consequently the 2nd respondent is at liberty to auction the Devasthanam's lands for fetching the appropriate lease amounts in a competitive environment.

Learned counsel for the petitioner would strenuously urge that as the petitioners had planted jamoil and subabulu (bamboo) trees and incurred considerable expenditure for the same, the petitioners should be permitted to cut and cart away the trees so planted and the respondents should be directed to extend the lease hold rights to the petitioners so as to enable them to use the usufruct.

As the lands in favour of the petitioners stood determined by operation of law and the legislation does not enable renewal of lease and as the petitioners are not entitled to any of the benefits u/Sec. 82(2) of the Act (as they are not landless poor persons), none of the reliefs sought could be granted. The difficulties faced by the petitioners does not constitute a legal basis for grant of Mandamus. The writ petition is without merits and is accordingly dismissed. No order as to costs.

Dated: 30.06.2005 ----------

Pvsn Justice G. Raghuram

… REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Assistant Commissioner of Endowments, Kothapet, Ongole, Prakasam District.

2. The Manager, Sri Lethotamma Ammavari Devasthanam, Tanguturu village and Mandal, Prakasam District.

3. Two CCs to the Government Pleader for Endowments, High Court buildings, Hyderabad (OUT)

4. 2 CD copies.